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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,075	03/20/2001	Edward F. Chamberlain	6032/093	1665
36122 7590 11/21/2007 THE OLLILA LAW GROUP LLC 2060 BROADWAY SUITE 300 BOULDER, CO 80302			EXAMINER DINH, TIEN QUANG	
			ART UNIT 3644	PAPER NUMBER
			MAIL DATE 11/21/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/813,075

Applicant(s)

CHAMBERLAIN ET AL.

Examiner

Tien Dinh

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-13 and 21-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-13, 21-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 25-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 25, it is claimed that another panel is extended "from the case to provide the launch platform on which the inflated balloon can be placed". This is vague and misleading since it seems that applicant is claiming two platforms and yet it is written to claim only one platform. Please explain.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-13, 21, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernier 3915529 in view of Eyre et al and possibly the admitted prior art on page 4 of the disclosure.

Bernier teaches the steps of opening a cover 12 and extending panels 18, 19 to provide launch platforms on which an uninflated balloon can be placed. He also discloses extending legs 22, 24, 26, 28 that are opposite the cover and can be extended prior to opening the case. Bernier is silent on the steps to launch the balloon. However, Eyre et al teaches a method of inflating and launching a balloon. The steps include deploying a launch platform 11 where the balloon can be inflated and be protected with a launch bag 13. The balloon is controllably released from the launch bag via elements 33, 57, etc. See figures 3-6. The launch bag 13 is secured to the platform with element 63.

It would have been obvious to one skilled in the art at the time the invention was made to have used the platform of Bernier and used balloons and launch systems as taught by Eyre et al to have the predictable result of having a visual communication system.

Re claim 10, please note that balloons or balloon systems can come in various sizes. A person skilled in the art would have made the balloons any sizes necessary to achieve the desired mission and at the same time save space and weight. A person skilled in the art would have used the balloons and launch system that is small enough to be carried by Bernier so that the balloon system can be fitted inside the case and can be carried around.

Re claim 12, please note that Eyre et al teaches that the canopy 13 is made out of "light weight fabric". A person skilled in the art would recognize that fabrics are elastic, which is defined as being able to returning to its original shape after being expanded, etc. Furthermore, elastic materials that applicant has admitted as prior art such as Lycra are well known. One skilled in the art would have used Lycra as the material in the launch bag as a mere substitution of parts. Applicant has not cited any criticality to the material. Please note that fabrics such as

cotton used to make t-shirts are “elastic”. One skilled in the art should recognize this notoriously well known fact.

RE claim 25, there are two panels that provide launch platforms as readily seen in figure 1A of Bernier.

Re claim 26, please note that applicant has not provided any criticality for this. In addition, since the size of the balloons can be small, the balloons hence will be less than the length of the panels. Furthermore, figure 2 of Eyre et al shows that the balloon less than the platform, which teaches that the balloon is less than the panels. Plus, there is no step in this claim. The applicant is merely trying to claim an apparatus and not a step.

Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernier 3915529 as modified by Eyre et al as applied to claim 9 above, and further in view of Burns 6286462.

Bernier 3915529 as modified by Eyre et al discloses all claimed parts (including handle shown in figures 1B and 1C) except for the wheel and fittings. However, Burns discloses wheels (see figure 5) and fittings 34 are well known.

It would have been obvious to one skilled in the art at the time the invention was made to have used wheels and fittings in Bernier’s system as taught by Burns to have the predictable result of easier transportation and to allow the system to be secured to any structure.

Claims 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernier 3915529 in view of Eyre et al, Burns, and Wilburn et al 6226813 and possibly the admitted prior on page 4 of the disclosure.

Bernier teaches the steps of opening a cover 12 and extending panels 18, 19 to provide a launch platform on which an uninflated balloon can be placed. He also discloses extending legs 22, 24, 26, 28 that are opposite the cover and can be extended prior to opening the case. Bernier is silent on the steps to launch the balloon and securing to the launch site. However, Eyre et al teaches a method of inflating and launching a balloon. The steps include deploying a launch platform 11 where the balloon can be inflated and be protected with a launch bag 13. The balloon is controllably released from the launch bag via elements 33, 57, etc. See figures 3-6. The launch bag 13 is secured to the platform with element 63. Burns discloses wheels (see figure 5) and fittings 34 are well known. The fittings and element 30 allows the case to be secured to a structure that is located at a launch site. Willburn et al also teaches that ropes/elements 16 can be used to secure elements to the ground/structure. This is to reinforce the well known understanding that securing parts to another part with "ropes" are well known.

It would have been obvious to one skilled in the art at the time the invention was made to have used the platform of Bernier to launch the balloon as taught by Eyre et al to have the predictable result of having a visual communication system.

It would have been obvious to one skilled in the art at the time the invention was made to have used wheels, fittings, and flexible means in Bernier's system as taught by Burns and Willburn et al to have the predictable result of easier transportation and to allow the system to be secured to any structure. Please note that balloons or balloon systems can come in various sizes.

A person skilled in the art would have made the balloons any sizes necessary to achieve the desired mission and at the same time save space and weight. A person skilled in the art would have used the balloon launch system that is small enough to be carried by Bernier so that the balloon system can be fitted inside the case and can be carried around.

RE claim 25, there are two panels that provide launch platforms as readily seen in figure 1A of Bernier.

See the rejection above on the "elastic" limitation.

Response to Arguments

The examiner has used new references to reject the amended claims. This renders applicant's arguments moot.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tien Dinh whose telephone number is 571-272-6899. The examiner can normally be reached on 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TD

Tien Dinh